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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,301	09/16/2003	Donna Jean Crowther	2002U023.US	4331

7590 07/21/2006

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EXAMINER

LU, C CAIXIA

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/664,301	CROWTHER ET AL.	
	Examiner	Art Unit	
	Caixia Lu	1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ewen et al. (US 4,530,914) in view of Reddy et al. (US 5,648,428) and Miya et al. (US 4,931,417) for the same rationale as set forth in the previous Office action mailed April 7, 2006.

Response to Arguments

2. Applicant's arguments filed June 21, 2006 have been fully considered but they are not persuasive.

Applicants argue that the combined teaching of Ewen and Reddy does not render Reddy's catalyst to be obvious variation of the instant claims. This is piece meal analysis. One cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references. In re Keller, 208 USPQ 871 (CCPA 1981). The test for obviousness is not what would occur to those of ordinary skill when viewing first one reference and then the other, but what would occur of ordinary skill when viewing the combination of the reference. Such is corrected noted by applicants' citation of "[i]t is impermissible within the framework of section 103 pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one ordinary skill in the art." In re Wesslau, 353 F.2d 238,241, 147 USPQ 391, 393 (CCPA 1965). It is not the examiner's position that any one reference suggests all of the claimed limitations. It is the examiner position that

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Reddy's teaching of mixing mineral oil with a metallocene catalyst suggests to one ordinary skill to combine any metallocene catalyst such as Ewen's binary metallocene catalyst composition with mineral oil in order to improve stability and easily handling to the catalyst. Because Reddy does not teach away from combining the mineral oil with a binary metallocene catalyst composition such as Ewen's for the obvious advantage of providing stability and easy handling of catalyst composition, the rejection under 35 USC 103 over the combined teaching of Ewen in view of Reddy of the record is proper and thus maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful and the matter is urgent, the examiner's supervisor, David Wu, can be reached at (571) 272-1114. The fax numbers for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1700.



Caixia Lu, Ph. D.
Primary Examiner